

REMARKS

Claims 1, 2 and 5 to 10 are in the application.

As a result of the foregoing Amendment, the subject matter of claims 3 and 4 has been included in claim 1. In addition, claim 1 has been amended to recite that the improvement feature of the present invention is the fact that the parts (9, 10) are rotatable relative to each other about an axis extending perpendicularly to the longitudinal axis (4) of the neck of the femur.

Turning first to the objection to the drawings, the Examiner will note that the specification has been amended on page 8 to remove reference to reference numeral 27.

With respect to the objection to the claims, the Examiner will note that the original feature of claim 3 has been correctly incorporated into claim 1.

In addition, claim 5 has been corrected as required.

Applicant respectfully submits that the features recited in claim 1 are not disclosed or suggested by the references relied on by the Examiner.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 3, and 4 under 35 U.S.C. 102 (b) as being anticipated by Nassar, et al., are respectfully requested.

Applicant submits that the reference relied on by the Examiner is directed to a hip joint prosthesis as it is now recited in the preamble of claim 1 as defining the state of the art.

The reference does not disclose or suggest a prosthesis in which the two parts of the anchoring part are rotatable about an axis extending perpendicularly to the longitudinal axis of the neck of the femur.

Rather, the reference is directed to a prosthesis in which the parts are movable relative to each other in the direction of the longitudinal axis of the neck of the femur.

The reference to Martin is also directed to a prosthesis in which the parts are movable in the direction of the longitudinal axis.

As a result of the configuration according to the present invention, it is possible to absorb especially the bending deformations of the neck of the femur.

The reference to White does also not disclose or suggest the present invention as claimed.

The mobility of the individual parts of the anchoring part described in the reference does not refer to the implanted state. Rather, in the implanted state, the parts of the anchoring part are rigidly connected to each other. The mobility referred to merely serves the purpose of adjusting the implant to different shapes of the bone.

Accordingly, it is submitted that it is clear that the references relied on by the Examiner do not disclose or suggest the prosthesis as it is claimed in claim 1 of the present application.

Therefore, it is submitted that claim 1, and the claims depending there from, are patentable over the art of record.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with the application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on November 15, 2007.

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